

House Study Bill 130 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON KAUFMANN)

A BILL FOR

1 An Act relating to credit transactions involving agricultural
2 items, including by providing for warehouse drying or
3 storage liens on crops and by establishing a central filing
4 system relating to security interests in farm products,
5 providing fees, and including applicability, contingent
6 implementation, and effective date provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
WAREHOUSE DRYING OR STORAGE LIEN ON CROPS
PART A
PRINCIPAL PROVISIONS

Section 1. NEW SECTION. 571A.1 Definitions.

1. "*Agricultural lien*" means the same as defined in section 554.9102.

2. "*Crop*" means any of the following:

a. A plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. An item having commercial value produced on a tree, vine, or bush.

3. "*Lien*" means a warehouse drying or storage lien created pursuant to section 571A.2.

4. "*Possessory lien*" means the same as defined in section 554.9333.

5. "*Warehouse*" means the same as defined in section 554.7102.

Sec. 2. NEW SECTION. 571A.2 Warehouse drying or storage lien created.

A warehouse drying or storage lien is created as a possessory lien on a crop delivered by a person to a warehouse acting as a bailee under chapter 554, article 7, for the reasonable value of services related to the drying or storage of the crop by the warehouse. For purposes of chapter 554, the warehouse is a secured creditor and lienholder and the person for whom the warehouse renders such drying or storage services is a debtor.

Sec. 3. NEW SECTION. 571A.3 Effectiveness, perfection, and termination of lien — evidence of delivery.

1. a. A lien becomes effective at the time a debtor delivers a crop to a warehouse for drying or storage.

b. The lien is automatically perfected at the time the lien

1 becomes effective. The lien is no longer perfected on and
2 after March 1 of the calendar year following the calendar year
3 that the debtor delivered the crop to the warehouse.

4 c. The lien is terminated when the warehouse relinquishes
5 possession of the crop.

6 2. Evidence of a debtor's delivery of a crop to a warehouse
7 includes but is not limited to a warehouse receipt as described
8 in section 554.7202, a scale ticket, or any other reasonable
9 evidence of delivery provided by the warehouse to the debtor.

10 Sec. 4. NEW SECTION. **571A.4 Priority of perfected lien.**

11 During the period that a lien is perfected under section
12 571A.3, the lien has priority over any conflicting security
13 interest in or agricultural lien on the crop, regardless of
14 when such security interest or agricultural lien is perfected.

15 Sec. 5. NEW SECTION. **571A.5 Enforcement of lien.**

16 During the period that a lien is perfected under section
17 571A.3, the warehouse may enforce the lien in the same manner
18 as an agricultural lien is enforced pursuant to chapter 554,
19 article 9, part 6. The warehouse may also enforce the lien by
20 exercising a right of setoff for the reasonable value of drying
21 or storage services upon the sale of the crop by the debtor
22 during the period that the lien is perfected.

23 Sec. 6. NEW SECTION. **571A.6 Other security interests or**
24 **liens held by warehouse.**

25 1. This chapter does not affect a possessory lien held by
26 a warehouse under section 554.7209, subject to the relevant
27 provisions of chapter 554, article 7.

28 2. This chapter does not affect a warehouse's position as a
29 secured party or holder of an agricultural lien under chapter
30 554, article 9.

31 PART B

32 CONFORMING PROVISIONS

33 Sec. 7. Section 554.7209, Code 2021, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 6. A warehouse that is a lienholder under

1 this section may enforce a warehouse drying or storage lien as
2 provided in chapter 571A to the extent allowed in that chapter
3 and in lieu of the lien created pursuant to this section.

4 Sec. 8. Section 570A.5, subsection 1, Code 2021, is amended
5 to read as follows:

6 1. a. The lien shall have priority over a lien or
7 security interest that applies subsequent to the time that the
8 agricultural supply dealer lien is perfected.

9 b. Notwithstanding paragraph "a", the lien shall not have
10 priority over a warehouse drying or storage lien during the
11 period that the warehouse drying or storage lien is perfected
12 under section 571A.3.

13 Sec. 9. Section 571.3A, subsection 2, Code 2021, is amended
14 to read as follows:

15 2. a. A harvester's lien that is perfected under section
16 571.3 shall have priority over a conflicting security interest
17 in harvested crops regardless of when such security interest is
18 perfected. A perfected harvester's lien shall have priority
19 over a conflicting landlord's lien as provided in [chapter 570](#),
20 regardless of when such landlord's lien is perfected.

21 b. Notwithstanding paragraph "a", the harvester's lien
22 shall not have priority over a warehouse drying or storage lien
23 during the period that the warehouse drying or storage lien is
24 perfected under section 571A.3.

25 Sec. 10. Section 579B.4, subsection 4, paragraph a,
26 subparagraph (2), Code 2021, is amended to read as follows:

27 (2) Notwithstanding subparagraph (1), a commodity
28 production contract lien shall not be superior to a any of the
29 following:

30 (a) A warehouse drying or storage lien during the period
31 that the warehouse drying or storage lien is perfected under
32 section 571A.3.

33 (b) A court-ordered lien provided in [section 717.4](#). ~~or a~~

34 (c) A veterinarian's lien created under [chapter 581](#), if such
35 lien is perfected as an agricultural lien.

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PART C
APPLICABILITY

Sec. 11. APPLICABILITY. This division of this Act is applicable to a crop delivered by a debtor for drying or storage to a warehouse on and after the effective date of this division of this Act.

DIVISION II

CENTRAL FILING SYSTEM FOR SECURITY INTERESTS IN FARM PRODUCTS

Sec. 12. Section 554.9102, subsection 4, Code 2021, is amended to read as follows:

4. *Federal Food Security Act.*

a. For purposes of the Federal Food Security Act, 7 U.S.C. §1631, written notice shall be considered to be received by the person to whom it was delivered if the notice is delivered in hand to the person, or mailed by certified or registered mail with the proper postage and properly addressed to the person to whom it was sent. The refusal of a person to whom a notice is so mailed to accept delivery of the notice shall be considered receipt.

b. This subsection is repealed on the date that this division of this Act is implemented as provided in this division of this Act.

Sec. 13. NEW SECTION. 554C.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Buyer*" means any of the following:

a. A person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

b. A commission merchant.

c. A selling agent.

2. "*Central filing system*" means a system for filing effective financing statements, and statements amending, continuing, or terminating effective financing statements, established under section 554C.4.

1 3. "*Commission merchant*" means a person engaged in the
2 business of receiving any farm product for sale, on commission,
3 or for or on behalf of another person.

4 4. "*Crop year*" means the calendar year in which a crop is or
5 will be harvested, animals are born or acquired, or poultry or
6 eggs are or will be sold.

7 5. "*Effective financing statement*" means a financing
8 statement required to be filed as part of the central filing
9 system as provided in section 554C.6.

10 6. "*Secretary*" means the secretary of state.

11 7. "*Security interest*" means an interest in farm products
12 that secures payment or performance of an obligation in the
13 same manner as provided in chapter 554.

14 8. "*Selling agent*" means a person, other than a commission
15 merchant, who is engaged in the business of negotiating the
16 sale and purchase of a farm product on behalf of a person
17 engaged in farming operations.

18 9. "*Signature*" means a symbol used to sign, execute, or
19 otherwise adopt a record or a process used to encrypt or
20 similarly process a record, in whole or in part, with the
21 present intent of authenticating the record for purposes of
22 identifying the person adopting or accepting the record.

23 Sec. 14. NEW SECTION. **554C.2 Special definitions.**

24 To every extent consistent with the application of federal
25 law, unless the context otherwise requires:

26 1. "*Agricultural lien*" means the same as defined in section
27 554.9102.

28 2. "*Approved unique identifier*" means a number, combination
29 of numbers and letters, or other identifier selected by the
30 secretary using a selection system or method approved by the
31 United States secretary of agriculture.

32 3. "*Debtor*" means a debtor as defined in section 554.9102
33 who has an interest other than a security interest or lien in a
34 farm product, or any other person who owns a farm product and
35 subjects the farm product to a security interest whether or not

1 that person owes a debt to the secured party.

2 4. "*Farm products*" means the same as defined in section
3 554.9102.

4 5. "*Farming operation*" means the same as defined in section
5 554.9102.

6 6. "*Secured party*" means a secured party as defined in
7 section 554.9102 in whose favor a security interest in farm
8 products is created.

9 7. "*Security interest*" means an interest in farm products
10 that secures payment or performance of an obligation in the
11 same manner as provided in chapter 554.

12 Sec. 15. NEW SECTION. **554C.3 Chapter consistent with**
13 **uniform commercial code.**

14 This chapter shall be interpreted in conjunction with
15 chapter 554, and terms and phrases used in this chapter shall,
16 to every extent practicable, be interpreted consistently with
17 chapter 554, article 9.

18 Sec. 16. NEW SECTION. **554C.4 Central filing system —**
19 **establishment and certification.**

20 1. The secretary shall establish and administer a central
21 filing system, which shall provide for the electronic filing
22 and examining of effective financing statements and statements
23 amending, continuing, or terminating effective financing
24 statements on a statewide basis.

25 2. The central filing system shall be designed to allow
26 persons to file and examine effective financing statements
27 using the internet. The secretary may provide for the
28 filing and examining of statements amending, continuing, or
29 terminating effective financing statements in a paper format.

30 3. The central financing system must comply with the
31 requirements set forth in 7 U.S.C. §1631, and must be certified
32 by the United States secretary of agriculture prior to the date
33 that this division of this Act is implemented.

34 Sec. 17. NEW SECTION. **554C.5 Filing requirements.**

35 1. The secretary shall provide for filing effective

1 financing statements, and statements amending, continuing, or
2 terminating effective financing statements, as provided in
3 this section. The secretary shall prescribe all forms to be
4 used for filing. The presentation of a statement for filing
5 by a secured party and the acceptance of the statement by the
6 secretary constitutes filing under this section.

7 2. An effective financing statement is valid if the
8 statement substantially complies with the requirements of this
9 section and section 554C.6 even though it contains minor errors
10 that are not seriously misleading.

11 3. An effective financing statement must be an original or
12 reproduced copy which is signed by the secured party and the
13 debtor. If filed electronically, the debtor is not required to
14 sign the effective financing statement. The statement must be
15 filed with the secretary by the secured party. The secretary
16 shall record the date and hour of the filing of the effective
17 financing statement.

18 4. An effective financing statement must contain all of the
19 following:

20 a. The name and address of the secured party.

21 b. The name and address of the debtor.

22 c. The approved unique identifier of the debtor.

23 d. A description of the farm products subject to the
24 security interest, the county in Iowa where the farm products
25 are produced or will be produced, the crop year unless every
26 crop of the farm product in question for the duration of
27 the effective financing statement is to be subject to the
28 particular security interest, and further details of the
29 farm products subject to the security interest if needed to
30 distinguish it from other quantities of farm products owned by
31 the same person or persons but not subject to the particular
32 security interest.

33 e. Information that the secretary requires to comply with 7
34 U.S.C. §1631 or to administer this section.

35 5. The effective financing statement may cover more than one

1 farm product located in more than one county.

2 6. A continuation statement shall be signed by the secured
3 party, identify the original effective financing statement by
4 file number, and state that the original financing statement
5 is still effective.

6 Sec. 18. NEW SECTION. **554C.6 Effectiveness.**

7 1. An effective financing statement shall remain effective
8 for a period of five years from the date of filing, subject to
9 extensions for additional periods of five years each by filing
10 or refiling a continuation statement within six months before
11 the expiration of the five-year period.

12 2. Upon timely filing of a continuation statement, the
13 effectiveness of the original financing statement shall be
14 continued for five years after the last date to which the prior
15 filing was effective, whereupon it shall lapse unless another
16 continuation statement is filed prior to the lapse. Succeeding
17 continuation statements may be filed in the same manner to
18 continue the effectiveness of the original effective financing
19 statement.

20 3. The effective financing statement shall be amended in
21 writing to reflect a material change within three months of the
22 material change. The amendment shall be signed and filed as
23 required for an original effective financing statement. If the
24 statement is filed electronically, the signature of the debtor
25 shall not be required.

26 4. *a.* The effective financing statement lapses upon the
27 expiration of the effective period of the effective financing
28 statement or is terminated upon the filing of a statement
29 signed by the secured party that the effective financing
30 statement is terminated.

31 *b.* If the effective financing statement has not lapsed or is
32 not terminated and there are no outstanding secured obligations
33 and no commitments to make advances, incur obligations, or
34 otherwise give value, the debtor may notify the secured party
35 in writing to terminate the effective financing statement.

1 *c.* Until the debtor instructs the secured party in writing
2 to terminate the effective financing statement, the secured
3 party has no obligation to terminate the effective financing
4 statement.

5 *d.* Within thirty days after receipt by the secured party
6 of the statement from the debtor to terminate the effective
7 financing statement, the secured party shall file with the
8 secretary a termination statement with respect to the effective
9 financing statement.

10 Sec. 19. NEW SECTION. **554C.7 Master list — organization**
11 **and contents.**

12 1. The secretary shall compile the effective financing
13 statements into a master list.

14 2. The master list shall be organized according to farm
15 products. The master list shall contain information required
16 to be contained in effective financing statements filed with
17 the secretary. The secretary shall arrange the master list for
18 each farm product as follows:

19 *a.* In alphabetical order according to the last name of the
20 individual debtors or, in the case of debtors doing business
21 other than as individuals, the first word in the name of such
22 debtors.

23 *b.* In numerical order according to the approved unique
24 identifier numbers of the debtors.

25 *c.* Geographically by county.

26 *d.* By crop year.

27 3. The master list shall include information regarding
28 buyers who register with the secretary on forms prescribed by
29 the secretary as provided in this section.

30 4. The secretary shall maintain a list of all buyers of farm
31 products who register with the secretary. A buyer registering
32 with the secretary shall complete forms requiring all of the
33 following information, as prescribed by the secretary:

34 *a.* The name and address of the buyer.

35 *b.* The interest of the buyer in receiving the list.

1 *c.* The farm products in which the buyer has an interest.

2 Sec. 20. NEW SECTION. 554C.8 Master list — distribution
3 and inquiries.

4 1. The secretary shall distribute to each registered buyer a
5 copy in written, printed, or electronic form of those portions
6 of the master list relating to farm products in which the buyer
7 has registered an interest. The secretary may provide for the
8 distribution of the master list or portions of the list on any
9 other medium requested by a registered buyer. If a registered
10 buyer so requests, the information provided to the buyer may
11 be limited to a county or group of counties where the farm
12 products are produced or to a crop year or crop years or to a
13 combination of those identifiers.

14 2. Distribution is subject to all of the following:

15 *a.* The distribution shall be by first class or electronic
16 mail.

17 *b.* The secretary shall adopt rules pursuant to chapter 17A
18 establishing the dates upon which the quarterly distributions
19 will be made, the dates after which a filing of an effective
20 financing statement will not be reflected on the next quarterly
21 distribution of lists, and the dates by which a buyer must
22 complete a registration to receive the next quarterly list.

23 3. The secretary shall remove information pertaining to
24 lapsed and terminated effective financing statements from the
25 master list prior to preparation of the lists required to be
26 distributed.

27 4. Upon written notice to the secretary by a registered
28 buyer requesting termination of the distribution of the
29 list to the registered buyer, the secretary shall terminate
30 distribution of the list to the registered buyer.

31 5. Oral and written inquiries by a buyer not registered
32 pursuant to section 554C.7 may be made to the secretary during
33 hours determined by the secretary.

34 *a.* The secretary may provide for a computerized system
35 for inquiry and confirmation which may be used in lieu of the

1 inquiry and confirmation system otherwise provided for in this
2 section.

3 **b.** Written confirmation of the information provided orally
4 in response to the inquiry shall be delivered by first class
5 mail or electronic mail to the buyer, at an address provided
6 by the buyer, by the secretary not later than the second
7 regular business day following the day on which the inquiry was
8 received.

9 6. In order to verify the existence or nonexistence of a
10 security interest, a buyer may request a seller to disclose the
11 seller's unique identifier number.

12 Sec. 21. NEW SECTION. **554C.9 Perfection — creation of**
13 **superior interests.**

14 1. If a buyer fails to register with the secretary prior
15 to the purchase of farm products, the buyer takes subject
16 to a security interest in the farm products only if the
17 secured party has filed an effective financing statement that
18 covers the farm products being sold, and the buyer could have
19 discovered the existence of the effective financing statement
20 prior to the purchase by accessing the database containing
21 effective financing statements filed electronically with the
22 secretary.

23 2. If the buyer registers with the secretary prior to the
24 purchase of the farm products, the buyer takes subject to a
25 security interest in the farm products only if the secured
26 party has filed an effective financing statement that covers
27 the farm products being sold, and the buyer does not secure
28 a waiver or release of the security interest as specified in
29 the effective financing statement from the secured party.
30 If a buyer in the ordinary course of business buying farm
31 products covered by the central filing system as provided in
32 section 554C.4 tenders to the seller the total purchase price
33 by means of a check or any other form of payment payable to
34 such seller and each security interest holder of the seller
35 identified in the central filing system for such products and

1 if such security interest holder authorizes the negotiation
2 of such check or other form of payment, such authorization or
3 endorsement and payment thereof shall constitute a waiver or
4 release of the security interest specified to the extent of
5 the amount of the instrument. Such waiver or release of the
6 security interest shall not serve to establish or alter in any
7 way security interest or lien priorities under Iowa law.

8 Sec. 22. NEW SECTION. **554C.10 Fees.**

9 1. The secretary shall establish fees for initially filing
10 an effective financing statement, or a statement amending,
11 continuing, or terminating an effective financing statement.
12 The fees shall not be more than provided for filing financing
13 statements as provided in section 554.9525.

14 2. The secretary may charge a buyer a fee for registering to
15 receive a master list or for receiving responses to inquiries
16 which are accessed in a printed format. The secretary shall
17 not charge a buyer a fee for registering to receive a master
18 list or for responding to buyer inquiries, including by
19 examining or printing effective financing statements, and
20 statements amending, continuing, or terminating effective
21 financing statements which are accessed in an electronic
22 format.

23 3. All moneys received by the secretary under this section
24 shall be handled in the same manner as repayment receipts, as
25 defined in section 8.2, and shall be used by the secretary
26 exclusively for the administration of this chapter.

27 Sec. 23. NEW SECTION. **554C.11 Rules.**

28 The secretary shall adopt rules pursuant to chapter 17A
29 necessary or desirable to administer this chapter.

30 Sec. 24. CONTINGENT IMPLEMENTATION.

31 1. Except as provided in subsection 2, the provisions of
32 this division of this Act shall only be implemented, including
33 administered and enforced, on the first business day that
34 occurs ninety calendar days after federal certification of the
35 central filing system as provided in this division of this Act

1 pursuant to 7 U.S.C. §1631.

2 2. The secretary of state shall adopt rules pursuant to
3 section 554C.11 necessary or desirable to implement, including
4 administer and enforce, the provisions of this division of this
5 Act beginning on the effective date of this division of this
6 Act.

7 a. To the extent that the secretary of state determines it
8 necessary to obtain federal certification of the central filing
9 system as provided in this division of this Act pursuant to 7
10 U.S.C. §1631, the secretary of state may adopt rules providing
11 for a waiver or modification of a provision of this division
12 of this Act, or may supplement a provision of this division of
13 this Act.

14 b. A rule adopted pursuant to paragraph "a" shall be
15 rescinded by its own terms not later than July 1 of the
16 legislative session succeeding implementation of this division
17 of this Act. Prior to that legislative session, the secretary
18 of state shall propose legislation to the general assembly
19 necessary to comply with the certification requirements of 7
20 U.S.C. §1631.

21 3. Upon federal certification of the central filing system
22 as provided in this division of this Act pursuant to 7 U.S.C.
23 §1631, the secretary of state shall provide notice of the
24 implementation date in three consecutive issues of the Iowa
25 administrative bulletin prior to the implementation date. The
26 secretary of state shall forward a copy of the notice to the
27 Iowa Code editor prior to its first publication. Until the
28 implementation date of this division of this Act, persons
29 shall take subject to or free of a security interest in the
30 same manner and according to the same procedures applicable
31 immediately prior to the implementation date of this division
32 of this Act.

33 Sec. 25. EFFECTIVE DATE. This division of this Act, being
34 deemed of immediate importance, takes effect upon enactment.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 GENERAL. This bill provides for credit transactions
4 involving agricultural goods which include crops (e.g., grain)
5 and other farm products usually governed by Iowa's version
6 of the Uniform Commercial Code (UCC), Code chapter 554, by
7 regulating the commercial relationships existing between
8 debtors, creditors, and buyers. It also provides for special
9 applicability, implementation, and effective date provisions.

10 WAREHOUSE DRYING OR STORAGE LIEN. The bill creates new
11 Code chapter 571A which provides for a special lien referred
12 to as a warehouse drying or storage lien imposed in favor of a
13 warehouse (secured party or lienholder) upon a crop delivered
14 by a debtor (e.g., farmer) for reasonable expenses relating to
15 drying and storing the crop. During the period that the lien
16 is perfected, it has priority over any competing creditor's
17 interest. Thus, a warehouse could enforce the lien before
18 all other competing security interests and statutory liens,
19 including agricultural liens, and common law liens regardless
20 of if or when the competing security interest or lien was
21 perfected. In this case, the lien is created as a possessory
22 lien in favor of the warehouse acting as a special type of
23 creditor serving as custodian and referred to as a bailee
24 (see Code chapter 554, article 7). The lien is automatically
25 perfected at the time the warehouse takes possession of the
26 crop. The warehouse's special perfection status expires on
27 March 1 of the calendar year following the calendar year that
28 the debtor delivered the crop to the warehouse. The lien
29 is terminated when the warehouse relinquishes possession of
30 the crop. During the period that the lien is perfected, the
31 warehouse may enforce the lien in the same manner provided for
32 perfected agricultural liens under the UCC. The new lien does
33 not affect other possessory liens, or other security interests
34 or agricultural liens that may be held by the warehouse. The
35 lien is applicable to a crop delivered by a debtor for drying

1 or storage to a warehouse on or after July 1, 2021.

2 BACKGROUND. Under Iowa's version of the UCC, article 9,
3 a security interest is created by a contract referred to as
4 a security agreement executed by a creditor and debtor in
5 exchange for obtaining a loan (Code section 554.9201). The
6 security interest is said to attach to the debtor's collateral
7 (Code section 554.9203) and based on that agreement the
8 creditor may perfect the security interest and obtain priority
9 over the covered collateral among competing creditors when
10 enforcing the debt (Code section 554.9308). There are several
11 ways in which a creditor may perfect a security interest,
12 including by possession. Possession is used to perfect a
13 general warehouse lien allowed under Code chapter 554, article
14 7 (Code section 554.7209). More commonly, a security interest
15 is perfected by filing a financing statement (referred to as
16 a UCC-1) with the secretary of state (Code section 554.9308).
17 In addition, various Code chapters existing outside the UCC
18 create agricultural liens in commodities produced by a farming
19 operation. An agricultural lien is a statutory lien that
20 may secure the payment of a financial obligation associated
21 with commodity production, and is not necessarily possessory,
22 meaning that it may continue to cover the commodity after
23 harvest and delivery (Code section 554.9102(1)(e)). An
24 agricultural lien is also perfected by filing a financing
25 statement with the secretary of state (Code section 554.9338).

26 CENTRALIZED FILING SYSTEM. The bill creates a centralized,
27 statewide filing system (system) for security interests in
28 farm products to notify buyers of farm products subject to an
29 attached security interest. Farm products include goods other
30 than standing timber produced as part of a farming operation
31 and includes crops, aquatic goods, livestock, supplies used
32 or produced on the farming operation, or products of crops or
33 livestock in an unmanufactured form (Code section 554.9102).
34 The system must be certified by the United States department
35 of agriculture. The bill allows a person who has a secured

1 interest attached to farm products to complete and file a
2 document referred to as an effective financing statement
3 or a statement amending, continuing, or terminating the
4 effective financing statement, with the secretary of state.
5 The secretary must compile information contained in the
6 effective financing statements into a master list organized
7 according to farm products which the secretary must regularly
8 distribute to buyers of farm products registered with the
9 secretary. The secretary may also respond to verbal or
10 written inquiries by buyers including unregistered buyers and
11 deliver a written confirmation to inquiring buyers regarding
12 whether a farm product is subject to a security interest. If
13 a buyer registers with the secretary prior to the purchase
14 of farm products, the registered buyer takes subject to the
15 security interest only if the secured party has filed an
16 effective financing statement that covers the farm products
17 being sold, unless the registered buyer secures a release of
18 the security interest. If a buyer fails to register with the
19 secretary, the buyer takes subject to the security interest
20 only if the secured party has filed an effective financing
21 statement that covers the farm products, and the buyer could
22 have discovered the existence of the effective financing
23 statement by conducting an inquiry and receiving a response and
24 confirmation. The bill authorizes the secretary to establish
25 fees for secured parties filing effective financing statements
26 and buyers registering with the secretary. The secretary must
27 adopt rules as necessary to implement, administer, and enforce
28 the provisions of the system. The system becomes effective on
29 the first business day occurring 90 days after certification by
30 the United States department of agriculture and publication of
31 three successive notices in the Iowa administrative bulletin.
32 BACKGROUND. Article 9 of the UCC provides an exception for
33 buyers in the ordinary course of business who generally take
34 free of a security interest created by the seller even in cases
35 in which the security interest has been perfected and the buyer

1 is aware of its existence (Code section 554.9320). However,
2 notwithstanding this exception, a buyer who purchases a farm
3 product from a person engaged in farming operations may not
4 take free of a security interest. The federal Food Security
5 Act of 1985, in relevant part (7 U.S.C. §1631), preempts the
6 state's article 9 requirements by providing that a buyer in
7 the ordinary course of business, a commission merchant, or a
8 selling agent (all classified under the term "buyer") may buy
9 farm products without being subject to a security interest
10 created by the seller but only if the buyer does not have
11 actual or constructive notice of that security interest. The
12 federal law allows states to elect between two notification
13 options: (1) Iowa's current law requiring the secured party to
14 deliver direct notice to potential buyers of a secured party's
15 interest in the farm products within one year prior to sale,
16 or (2) the system described in the bill. In either case, the
17 federal law does not supersede article 9 requirements that
18 establish priorities among creditors.